**IN THE HIGH COURT OF UTTARANCHAL**
**AT NAINTIAL**

Criminal Misc. Application No. 556 of 2006

Mukesh Chaturvedi
S/o Sri Verma Nand Chaturvedi
R/o Faujimatkota P.S. Rudrapur
District Udham Singh Nagar .... Applicant

Vs

1. State of Uttaranchal
2. Senior Superintendent of Police
   Udham Singh Nagar
3. Station House Officer
   Police Station Rudrapur
   District Udham Singh Nagar .... Respondents

Sri Rajendra Kotiyal, learned counsel for the applicant

**Hon'ble B.C. Kandpal, J.**

This petition under Section 482 Cr.P.C. has been filed by Mukesh Chaturvedi – applicant challenging the order dated 15.05.2006 passed by the Chief Judicial Magistrate, Udham Singh Nagar by which, the learned Chief Judicial Magistrate has issued the non-bailable warrants against the applicant and also issued the proclamation under Section 82 Cr.P.C.

2. Heard learned counsel for the petitioner, learned A.G.A. and perused the record.

3. It appears from the perusal of the impugned order passed by the Magistrate, which is contained as Annexure – 3 to the petition, that the Magistrate without application of his mind has passed an order for proclamation under Section 82 Cr.P.C. The order passed by the Magistrate, therefore, is bad in the eye of law.

4. Learned Magistrate should have perused the documents filed by the police and only thereafter applying his mind and should have passed the appropriate order in the matter.

5. I am, therefore, of the view that the impugned order which is contained as annexure – 3 to this petition does not stand in the eye of law.

6. The order is accordingly set aside. However, I direct the petitioner to surrender before the Magistrate and move the application in accordance with law. The Magistrate, thereafter hearing both the parties shall pass the appropriate order in the matter.

With the aforesaid observation, the petition is disposed of.

**(B.C. Kandpal, J.)**

18.07. 2006
ASWAL